UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--X
                              :

JOSE R. CHICON-DELEON,   :

                              :

              Plaintiff,   :

                              :   20-CV-5643 (JMF)

        -v-   :

                              :   MEMORANDUM OPINION

TRANS CONTINENTAL TRUCKING, LLC and   :   AND ORDER
YASHPAL AMARSINGH,   :

                              :

              Defendants.   :

                              :
--X

JESSE M. FURMAN, United States District Judge:

        Trial in this case is scheduled to begin on May 23, 2022. *See* ECF No. 46. Still pending are two motions *in limine* filed by Defendants: (1) to limit Plaintiff's expert testimony to the issues addressed in their reports; and (2) to preclude Plaintiff from calling Angelina Hernandez as a witness. *See* ECF No. 33; *see also* ECF No. 37 (resolving a third motion *in limine*).

        With respect to the first motion, Plaintiff concedes, as he must, *see* Fed. R. Civ. P. 26(a)(2)(B)(i) and 37(c)(1), that "all medical witnesses, whether called by plaintiff or defendant, should be limited to their previously exchanged medical reports and expert exchanges." ECF No. 39, at 2.[1] Accordingly, that portion of Defendants' motion is denied as moot.

        With respect to the second motion, the Court concludes that Hernandez should not be permitted to testify, even if only on rebuttal, unless Plaintiff first discloses any notes or reports she prepared in connection with his Independent Medical Examination and Defendants are given an opportunity to depose her. Plaintiff shall produce any notes or reports no later than **April 21, 2022**; if Defendants properly notice a deposition, Hernandez shall be deposed no later than **May 11, 2022**. In light of the foregoing, Defendants' motion to preclude Hernandez from testifying is denied, albeit without prejudice to renewal in the event that Plaintiff fails to comply with his disclosure obligations or Defendants, despite their due diligence, are denied a deposition.

        SO ORDERED.

Dated: April 13, 2022
      New York, New York   _____
                                               JESSE M. FURMAN
                                         United States District Judge

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[1]   Page references to Plaintiff's memorandum are to the page numbers automatically generated by the Electronic Case Filing system.